THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.19362 OF 2007

DATED: 11-09-2007

BETWEEN

O. Mukunda Rao,
S/o. Late Hanumantha Rao,
R/o. H.No.12-8-402,
Mettuguda, Secunderabad
and others.

...PETITIONERS

AND

The District Collector,
Hyderabad, Hyderabad District
and another.

...RESPONDENTS

ORDER:

Petitioners submit that the second respondent – Tahsildar, Marredpally Mandal, issued various orders vide impugned proceedings No.D/342/2007 dated 30.08.2007 stating that they have encroached small extents of house sites in Government land in T.S.No.6, Block-B, Ward No.124 of Malkajgiri Village, Marredpally Mandal and constructed houses and after issuing notices under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act'), as the petitioners failed to file any documents in support of their claim, consequently directed them to vacate the lands within 48 hours from the date of receipt of the order, otherwise steps would be taken to evict them in accordance with law. Petitioners further submit that the aforesaid order dated 30.08.2007 has been served only on 07.09.2007 and an appeal has been filed on 10.09.2007 before the District Collector,

Hyderabad – first respondent under Section 10 of the Act, but the appellate authority has not taken the appeal on file and
no orders have been passed.

2. Learned Government Pleader appearing for the respondents submits that the appeal lies to the Revenue Divisional Officer but not to the Collector.

3. I am not inclined to express any opinion in view of Section 10 of the Act. However, it is for the appellate authority- first respondent to consider and take appropriate decision as to whether the appeal lies to him or not. If the appeal does not lie before him, it is for him to pass an appropriate order so as to enable the petitioners to file an appeal before the RDO giving reasonable time. But a perusal of Section 10 of the Act goes to show that against the order of the Tahsildar an appeal lies to the Collector only.

4. Having regard to the facts and circumstances of the case,
the first respondent – District Collector, Hyderabad, is directed to consider and dispose the appeal filed by the petitioners against the impugned orders of the second respondent – Tahsildar, Marredpally Mandal; dated 30.08.2007 in proceedings No.D/342/2007 and pending disposal of the appeal, the petitioners shall not be dispossessed.

The writ petition is accordingly disposed of. There shall be no order as to costs.

V. ESWARAIAH, J

September 11, 2007
DSK